

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

WE THE PATRIOTS USA, INC.,
DIANE BONO,
MICHELLE MELENDEZ,
MICHELLE SYNAKOWSKI,
Plaintiffs,
v.

No. 1:21-cv-4954 (WFK) (RER)

KATHLEEN HOCHUL – GOVERNOR
OF NEW YORK; HOWARD
ZUCKER, M.D. - COMMISSIONER,
NEW YORK STATE DEPARTMENT
OF HEALTH
Defendants.

NOTICE OF MOTION

PLEASE TAKE NOTICE, that defendants Governor Kathy Hochul and Acting Commissioner of the New York State Department of Health Mary T. Bassett, M.D., M.P.H.,¹ sued in their official capacities (together, “Defendants”), by their attorney, LETITIA JAMES, Attorney General of the State of New York, shall move this Court before the Honorable William F. Kuntz, II, United States District Judge, at the United States Courthouse for the Eastern District of New York located at 225 Cadman Plaza East, Brooklyn, New York 11201, at a date and time to be determined by the Court, for an order dismissing the Complaint in the above-captioned action filed on September 2, 2021 (the “Complaint”), in its entirety and with prejudice, pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim on which relief can be granted.

PLEASE TAKE FURTHER NOTICE, that in support of its motion to dismiss, Defendants shall rely upon the Memorandum of Law in Support of Defendants’ Motion to Dismiss the Complaint, dated January 26, 2022; the Declaration of Todd A. Spiegelman in

¹ Dr. Bassett was appointed Acting DOH Commissioner on December 1, 2021 and is automatically substituted as a defendant for former DOH Commissioner Zucker pursuant to Federal Rule of Civil Procedure 25(d).

support of Defendants' motion to dismiss the Complaint, dated January 26, 2022, and the exhibits attached thereto; the Complaint; all other pleadings and papers submitted in this action; and any documents submitted in any appeal of the decisions in this action.

PLEASE TAKE FURTHER NOTICE, pursuant to this Court's Individual Practice Rule III(G)(1) and the Court's Order in this action dated December 27, 2021 (Minute Entry), any opposition papers to this motion to dismiss are due to be served on or before February 23, 2022; Defendants' reply papers, if any, are due to be served on or before March 16, 2022; and Defendants shall file all motion papers on or before March 16, 2022.

Dated: New York, New York
January 26, 2022

LETITIA JAMES
Attorney General of the
State of New York
Attorney for Defendants
By: _____/S/_____
TODD A. SPIEGELMAN
Assistant Attorney General
28 Liberty Street
New York, NY 10005
Tel. No.: (212) 416-8661

To: Norman A. Pattis
Cameron L. Atkinson
PATTIS & SMITH, LLC
383 Orange Street
New Haven, CT 06511
(203) 393-3017
Attorneys for Plaintiffs